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September 2019

### Administrative Appeal Decision - Aguayo, Cesar

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**Administrative Appeal Decision Notice****Inmate Name:** Aguayo, Cesar**Facility:** Attica Correctional Facility**NYSID No.:** 04949302-Q**Appeal Control No.:** 10-244-15 B**DIN:** 85-B-0047**Appearances:**

For the Board, the Appeals Unit

For Appellant:

Norman Effman  
Executive Director  
Wyoming County-Attica Legal Aid Bureau  
18 Linwood Ave  
Warsaw, NY 14569

**Board Member(s) who participated in appealed from decision:** Smith, W., Crangle.**Decision appealed from:** 10/2015 Denial of Discretionary Release/w 24 month hold.**Pleadings considered:**


Brief on behalf of the Appellant submitted on: March 25, 2016.

Statement of the Appeals Unit's Findings and Recommendation.

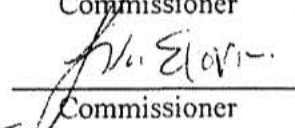
**Documents relied upon:**

Pre-Sentence Investigation Report, Parole Board Report, Interview Transcript, Parole Board Release  
Decision Notice (Form 9026), COMPAS instrument, Offender Case Plan.

**Final Determination:** The undersigned have determined that the decision from which this appeal was taken be and the same is hereby

  
Commissioner

Affirmed ☒ Reversed for De Novo Interview ☐ Modified to

  
Commissioner

Affirmed ☒ Reversed for De Novo Interview ☐ Modified to

  
Commissioner

Affirmed ☒ Reversed for De Novo Interview ☐ Modified to

***If the Final Determination is at variance with Findings and Recommendation of Appeals Unit, written reasons for the Parole Board's determination must be annexed hereto.***

This Final Determination, the related Statement of the Appeals Unit's Findings and the separate findings of the Parole Board, if any, were mailed to the Inmate and the Inmate's Counsel, if any, on 5/9/16 RF.

Distribution: Appeals Unit - Inmate - Inmate's Counsel - Inst. Parole File - Central File  
P-2002(B) (5/2011)

STATE OF NEW YORK - BOARD OF PAROLE

**STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION**

**Inmate Name:** Aguayo, Cesar

**Facility:** Attica Correctional Facility

**NYSID No.:** 04949302-Q

**Appeal Control No.:** 10-244-15 B

**DIN:** 85-B-0047

**Findings:** (Page 1 of 1)

Appellant challenges the October 2015 Board of Parole decision as arbitrary and capricious, contending that, among other things, the Board failed to consider appellant's TAP/Offender Case Plan.

A review by the Appeals Unit has confirmed that appellant's TAP/Offender Case Plan was not before the Board at the time of appellant's interview. The TAP/Case Plan was required to be considered pursuant to 9 N.Y.C.R.R. 8002.3(a)(12). Consequently, because a mandated document was not considered by the Board, a *de novo* interview is required.

As a *de novo* interview is the entirety of the relief which Appellant may be awarded, his remaining contentions need not be reached.

**Recommendation:** That the decision of the Board of Parole following the Interview of October 2015 denying appellant parole and imposing a 24 month hold be vacated, and that a *de novo* Parole Board Release Interview with the TAP/Offender Case Plan considered be held in front of a different panel of Commissioners forthwith.